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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

DODGER, INC.; GOLD, INC.; BORUI, INC.; and  
SALOMON HELFON TUACHI,

Petitioners,

v.

INTERACTIVE DATA CORP.; INTERACTIVE  
DATA PRICING AND REFERENCE DATA,  
INC.; and DOES 1 through 10, Inclusive,

Respondents.

CASE NO. 08-CV-1476-JM-POR

**EX PARTE APPLICATION FOR  
ORDER ENFORCING FINRA  
SUBPOENA OR, IN THE  
ALTERNATIVE, SETTING A  
HEARING AT THE EARLIEST  
POSSIBLE DATE WITH LEAVE TO  
CONDUCT DISCOVERY**

Petitioners DODGER, INC.; GOLD, INC.; BORUI, INC.; and SALOMON HELFON TUACHI (hereinafter, "Petitioners"), hereby apply to the Court *ex parte* for an Order enforcing the subpoena issued by the Financial Industry Regulatory Authority (FINRA) arbitrator or, in the alternative, setting a hearing for the earliest possible date and in the interim permitting Petitioners to conduct limited discovery in an expedited manner in advance of the Rule 26(f) Discovery Conference and Order.

Good cause exists for the relief requested. This action is limited to enforcement of a subpoena issued in a FINRA arbitration. The only relief sought in this action is compliance with the FINRA subpoena. A copy of the subpoena is attached hereto as Exhibit "1." This enforcement action was originally filed in the San Diego Superior Court. Respondent removed this proceeding to the U.S.

1 District Court on grounds of diversity. The underlying FINRA arbitration is set to take place on October  
 2 27, 2008. Respondents will likely request time to comply with the subpoena once ordered to comply.  
 3 Expert review of the documents to be produced will be required. The subpoena seeks information in the  
 4 sole possession of Respondent which is essential to Petitioners' case in the underlying arbitration.

5 Among the defenses raised by Respondents to the FINRA subpoena is undue burden. In the event  
 6 the Court is disinclined to enforce compliance with the FINRA subpoena on this record, Petitioners  
 7 apply for leave to conduct expedited discovery for the sole purpose of deposing Respondent's personnel  
 8 with respect to the burden and cost associated with compliance. However, the undue burden claim of  
 9 Respondents is based in large part on their expansive reading of the "subject CMO" definition in the  
 10 subpoena. The Proposed Order clarifies and limits the scope of the production to those securities  
 11 specifically listed in the subpoena.

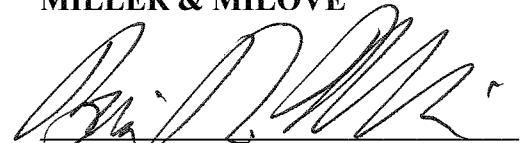
12 Irreparable injury will come to Petitioners if the requested relief is not granted on a timely basis.  
 13 If resolved in the normal course and without *ex parte* relief, this action would not be resolved in time  
 14 to prepare for the underlying FINRA arbitration. This action is wholly ancillary to the underlying FINRA  
 15 arbitration. The arbitration cannot proceed further without production of the information sought under  
 16 this subpoena.

17 The parties have met and conferred and have been unable to reach agreement.

18 This application is supported by the pleadings on file in this action, the accompanying  
 19 memorandum of points and authorities and Declaration of Brian D. Miller and exhibits thereto, and such  
 20 other and further evidence and argument as shall be received.

21 Dated: August 26, 2008

**MILLER & MILOVE**



Brian D. Miller  
 Attorneys for Petitioners